IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

DATE OF DECISION: 29.11.2006

Anjani Singh and others

...Appellants

versus

Salauddin Singh and others.

... Respondents

CORAM:- Hon'ble Mr. Justice Uma Nath Singh.

Present: Mr.S.K.Singla, Advocate
for the appellants.
Mr.Gopal Mittal, Advocate
for respondent No.3.

UMA NATH SINGH, J. (ORAL)

This FAO arises out of an award dated 26.4.2000 passed by learned Presiding Officer, Motor Accident Claims Tribunal, Faridabad, in MACT Case No.217 of 27.11.1997, awarding a sum of Rs.2,49,600/- with 12% interest per annum, in death case of a thirty five years old Radio-cum-Telephone Operator serving in the Indian Air Force.

In this FAO, learned counsel for the claimants-appellants submitted that looking to the number of dependents and nature of dependency, deduction of 1/3rd amount from the compensation towards personal expenses appears to be unreasonable. Learned counsel also submitted that as per Schedule-II under Section 163-A of the Motor Vehicles Act, 1988 (for short `the Act'), the multiplier applied for the age group of deceased, between 35 and 40, should be 16, whereas in the instant case only the multiplier of 8 has been applied. On the other hand, learned counsel for the Insurance Company defended the impugned award

submitting that it is just and reasonable in the obtaining circumstances of the case.

I have carefully considered the rival submissions and also perused the records of the case. The salary certificate (Ex.PF) indicated that the salary being paid to the deceased on the date of death was Rs.4030/- in total and there is no document placed on record to indicate that the deceased had ever received the revised salary nor have the claimants till date placed any material to show that any arrears in terms of the revised pay scale were paid to them. Thus, the Tribunal has correctly assessed monthly income at Rs.4030/-. Undisputedly, the deceased was survived by his young widow, three minor children, including a daughter of 8 years, and widow mother. The number and nature of dependency are such that deduction of 1/3rd from the total income towards personal expenses appears to be on higher side. Accordingly, the finding of the Tribunal, leading to deduction of 1/3rd amount towards personal expenses, appears to be erroneous. Hence, the said finding is set aside and only 1/4th of the compensation amount is deducted towards personal expenses. As such, the annual dependency amount would come to Rs.36,270/- Further, there is no material on record to show the age of retirement of the deceased on the post he was holding on the date of accident. In defence forces, there are different retirement age limits related to the status of different posts and to that extent, the Tribunal appears to be correct in its finding. But again, looking to the nature of dependency and number of dependents, I deem it expedient, in the interest of justice, to apply the multiplier of 10 instead of 8. Thus, the total dependency would come to Rs.3,62,700/-. Since the deceased died of the accident in 1997, as per the value of our currency at that time, I award a

sum of Rs.2,500/- towards funeral expenses and Rs.5,000/- towards consortium to the widow of the deceased. In total, the compensation amount is worked out to be Rs.3,70,200/-. The interest of 12% awarded in respect of the compensation amount by the Tribunal may not be acceptable today, in view of present prevalent rate of interest and the judgments of Hon'ble the Apex Court on this issue. Hence, the compensation is enhanced by Rs.1,20,600/-, which shall carry an interest @ 6% per annum from the date of filing of the claim petition till the date of payment. The rest of the impugned award shall remain intact.

Accordingly, the FAO is allowed in part.

29.11.2006 **(UMA NATH SINGH)**
pk **JUDGE**